

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALFONSO PERCY PEW,)	
)	3:17cv9
Plaintiff,)	Electronic Filing
)	
v.)	Judge David Stewart Cercone
)	Magistrate Judge Lisa Pupo Lenihan
JOHN E. WETZEL, <i>Secretary of</i>)	
<i>Corrections</i> , SHIRLEY MOORE)	
SMEAL, <i>Executive Deputy Secretary</i> ,)	
STEVEN R. GLUNT, <i>Regional</i>)	
<i>Deputy Secretary</i> , TRACEY SMITH,)	
<i>Director, Religious Accommodation</i>)	
<i>Committee</i> , and MARCIA NOLES,)	
<i>Food Services, Bureau of Health Care</i>)	
<i>Services</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff Alfonso Percy Pew (“Plaintiff”) initiated this prisoner civil rights action on January 20, 2017, by filing a Motion for Leave to Proceed *in forma pauperis*, an affidavit alleging imminent danger, and a proposed civil rights complaint. (ECF No. 1.) That same day, this case was referred to United States Magistrate Judge Lisa Pupo Lenihan for all pretrial matters in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court.

On February 8, 2017, the Court held an evidentiary hearing on Plaintiff’s allegations of imminent danger. (ECF No. 3.) Following testimony from Plaintiff, and other Department of Corrections personnel, the Magistrate Judge ruled that Plaintiff was not in imminent danger of serious physical injury or harm. Therefore, in accordance with her Report and Recommendation that she filed on February 8, 2017, (ECF No. 4), the Magistrate Judge recommended that Plaintiff’s Motion for Leave to Proceed *in forma pauperis* be denied because he has three

“strikes” that prohibit him from proceeding *in forma pauperis* without a showing of imminent danger. See 28 U.S.C. § 1915(g). Plaintiff was served with the Report and Recommendation and advised that he had until February 27, 2017 to file objections. As of today, no objections have been filed. Therefore, after reviewing the record *de novo*, the Court is in agreement with the ultimate recommendation of the Magistrate Judge. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation dated February 8, 2017, (ECF No. 4), is adopted as the Opinion of the Court.


IT IS FURTHER ORDERED that Plaintiff’s Motion for Leave to Proceed *in forma pauperis*, (ECF No. 1), is denied in accordance with 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that this case is dismissed without prejudice to Plaintiff’s right to reopen it by paying the full \$400.00 filing fee.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

Dated: *March 3, 2017*



David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan,
United States Magistrate Judge

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